

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

National Association for the
Advancement of Colored People,
et al

Plaintiffs

vs.

Case No. 3:23-cv-272-HTW-LGI

Tate Reeves, in his official capacity
as Governor of the State of Mississippi;
et al

Defendants

**Defendant Randolph's Motion to Strike Immaterial,
Impertinent, and Scandalous Matters**

Defendant Michael K. Randolph (The Chief Justice) files this motion pursuant to Fed. R. Civ. P. 12(f)(2) seeking an order to strike matters set out in the Motion for Preliminary Injunction (Doc. 110) and exhibits thereto as Immaterial, Impertinent, and Scandalous as follows:

1. The Affidavit of Markyel Pittman (Doc. 110-1) should be stricken in that the affidavit contains hearsay on hearsay and opines about the motivations of The Chief Justice. Paragraphs 8, 9 and 10 are offensive and a vile disparagement of The Chief Justice when the affiant sets out: "And I believe that both of them (including the Chief Justice) have very different policy perspectives than I do." The affiant opines that the Chief Justice will take part in a set of actions described in the Affidavit to subject Jackson's black population to "over-incarceration," perpetuating a discriminatory court system. The Chief Justice's conduct is described as "purposeful denial of our political control." (Doc. 110-1, at §6.)

2. The Affidavit of Frank Figgers (Doc110-2) likewise sets out what the affiant believes and disparages the Chief Justice when he swears that the statute “subjects us to the will of the Chief Justice, who I believe has been vocal in his support of increased penalties and harsher sentencing.” This averment is a false and outrageous disparagement of the Chief Justice. Further, affiant has no basis to make this blanket and unsupported allegation, leading the reader to conclude that the Chief Justice has an agenda to intentionally deprive black voters of their political power.

3. The Affidavit of Charles Taylor (Doc 110-3) should be stricken to the extent it speculates on the future conduct of the Chief Justice. The Affidavit, like the others, is carefully drafted but with inuendo and speculates that the actions of the Chief will not be in line with the beliefs of the affiant. It is one thing to say there is a disagreement with the Chief Justice, but the parties cannot speculate about the future actions of the Chief Justice. Saying the quiet part aloud, the affidavit essentially paints the Chief Justice to be motivated by an ulterior motive to deprive the black voters of Jackson of their rights.

4. None of these disgraceful allegations are supported by fact, proof or even a scintilla of evidence. The record is devoid of any evidence of motivation, *vel non*, that would motivate the Chief Justice in a manner inconsistent with the law. The affidavits and the motion they support are shameful and outrageous.

5. For the reasons set out in the brief in support of this motion, The Chief Justice moves the court to strike the Motion (Doc. 110) and affidavits (Docs. 110-1,

110-2, and 110-3) as a whole or in the alternative to strike those portions that are hearsay, immaterial, impertinent, and scandalous.

Respectfully submitted, this 16th day of November, 2023.

Respectfully submitted,

Michael K. Randolph, in his
official capacity as Chief Justice
of the Mississippi Supreme Court

By: /s/ Mark A. Nelson
Mark A. Nelson, MB #3808

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Certificate of Service

I, Mark A. Nelson, hereby certify that on this the 16th day of November, 2023,
I electronically filed the foregoing with Clerk of the Court using the ECF system
which will provide notice to all counsel of record.

/s/ Mark A. Nelson
Mark A. Nelson